IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No :26848 of 1999

Dated: 31.07.2007

Between:
A.Anjaneyulu **.....** PETITIONER

AND

1.The Commissioner of Endowments,
Endowments Department, Thilaknagar,
Hyderabad and 2 others …RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.26848 of 1999

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the impugned proceedings in R.Dis.No.M2/50814/85 dated 09.12.1999 of the 1st respondent as illegal and arbitrary and consequently set aside the same with a direction to the 1st respondent to sell the land to an extent of Ac.0.28 cents in RS.No.656 belonging to the 3rd respondent to the petitioner after accepting the balance sale consideration and implementing the orders of the Government passed in Memo No.1227/Endts.IV-1/87-20 dated 04.11.1996.

It is the case of the petitioner that he took lease of Ac.0.28 cents in Sy.No.656 of Bapatla Town, Guntur District from the Eastern Choultry, Bapatla under a registered lease deed dated 04.12.1972 for the purpose of construction of a rice mill. When the other lands belonging to the said Choultry were sold to

private parties such as the A.P.S.R.T.C. etc., the petitioner requested the Trust board of the Choultry to sell the lease land in question in his favour and accordingly the Trust board by its resolution dated 01.04.1979 agreed for the same. Thereafter, the 2nd respondent-Deputy Commissioner of Endowments after enquiry fixed the market value of the land at Rs.55,000/- per acre and the same was also published in A.P. Gazettee dated 26.11.1981 calling for objections from the interested persons. When the matter was pending consideration, an order was passed evicting the petitioner from the land in question. Against the said order, the petitioner filed a revision before the 1st respondent-Commissioner of Endowments. During the pendency of the revision, the petitioner was asked to purchase the said land at the rate of Rs.76,000/- per acre, for which the petitioner was agreed. However, the 1st respondent-Commissioner of Endowments rejected the revision filed by the petitioner on the ground that he has not given the consent in time. Against the said order, the petitioner filed a review petition before the Government and the Government issued a Memo dated 04.11.1996 directing the 1st respondent-Commissioner of Endowments to take necessary action for selling the land in question to the petitioner at the market value duly following the prescribed procedure for fixing the market rate. After receipt of the said Government Memo, the 3rd respondent-Executive Officer issued a notice on 26.02.1998 requiring the petitioner to deposit 1/4th of the sale consideration at the rate of Rs.250/- per square yard and accordingly the petitioner paid an amount of Rs.84,000/-. But the 1st respondent failed to take any action in the matter. Hence the writ petition.

Detailed counter-affidavit has been filed by the 3rd respondent stating that the 1st respondent-Commissioner of Endowments passed an order in R.Dis.No.M2/50814/85 dated 09.12.1999 rejecting the proposal to sell the land in question in favour of the petitioner by way of private negotiations. It is further stated that since the said order was not challenged by the petitioner, the writ petition is liable to be dismissed on this ground alone.

In the light of the aforesaid statement made in the counter-affidavit, the petitioner filed W.P.M.P.No.18701 of 2007 seeking to amend the main relief and the same was ordered by this Court.

Heard both sides.

In the Government Memo No.1227/Endts.IV-1/87-20 dated 04.11.1996 it is specifically directed the 1st respondent-Commissioner of Endowments to take necessary action to sell the land in question to the petitioner at the market value duly following the prescribed procedure for fixing the market rate. As the said order passed by the Government is pending, the 1st respondent-Commissioner is estopped from passing the impugned order dated 09.12.1999. The order passed by the 1st respondent-Commissioner of Endowments dated 09.12.1999 refusing to sell the land in favour of the petitioner does not refer to the order passed by the Government dated 04.11.1996. Therefore, this Court is of the view that the matter requires reconsideration by the 1st respondent-Commissioner of Endowments. Consequently, the proceedings of the 1st respondent dated 09.12.1999 is liable to be set aside and is accordingly set aside.

The writ petition is disposed of directing the 1st respondent-Commissioner of Endowments to consider the issue keeping in mind the order passed by the Government dated 04.11.1996 and pass appropriate orders thereon as expeditiously as possible. However, the petitioner shall not be evicted from the land in question pending disposal of the matter by the 1st respondent. No costs.

_____

(GOPALA KRISHNA TAMADA, J)

31-07-2007
Gsn.